

BORA LASKIN LAW LIBRARY



3 1761 10631826 4

CONSTITUTIONAL LAW  
COURSE MATERIALS

VOLUME I

Katherine E. Swinton

Carol Rogerson

1989-90

Toronto

Faculty of Law

University of Toronto

1989

Prepared with the assistance of Ella Schwartz

Storage  
KF  
4482  
A1  
L3  
1989  
v.1

8-  
1  
2  
29  
1

LAW LIBRARY

SEP 6 1989

FACULTY OF LAW  
UNIVERSITY OF TORONTO

FACULTY OF LAW LIBRARY  
UNIVERSITY OF TORONTO

CONSTITUTIONAL LAW  
COURSE MATERIALS

VOLUME I

Katherine E. Swinton

Carol Rogerson

1989-90


Toronto

Faculty of Law

University of Toronto

1989

Prepared with the assistance of Ella Schwartz



Digitized by the Internet Archive  
in 2018 with funding from  
University of Toronto

<https://archive.org/details/constitutionalla01swin>

## TABLE OF CONTENTS: VOLUME I

<u>I. THE CANADIAN CONSTITUTION</u>	<u>Page</u>
Smiley, "What is the Canadian Constitution? and What Can We Reasonably Expect from it?".....	1
Cairns, "The Limited Constitutional Vision of Meech Lake".....	2
Mallory, "The Politics of Constitutional Change".....	7
Banting and Simeon, "Federalism, Democracy and the Constitution".....	16
 <u>II. THE DISTRIBUTION OF POWERS: PRINCIPLES OF CONSTITUTIONAL INTERPRETATION</u>	
 <u>1. GENERAL PRINCIPLES</u>	
 <u>(a) Matter, Pith and Substance</u>	
Northwest Falling v. The Queen.....	22
Fowler v. The Queen.....	27
MacPherson, "Developments in Constitutional Law".....	33
Lederman, "Classification of Laws and the British North America Act".....	34
Note on Classification.....	42
Reference Materials.....	43
 <u>(b) Federalism</u>	
Simeon, "Criteria for Choice in Federal Systems".....	44
 <u>(c) Double Aspect, Reading Down and Interjurisdictional Immunity</u>	
Hodge v. The Queen.....	64
McKay v. The Queen.....	67
Commission du salaire minimum v. Bell.....	75
Bell Canada v. Commission de la santé et de la sécurité du travail.....	82
 <u>(d) Paramountcy</u>	
Ross v. Registrar of Motor Vehicles.....	98
Canadian Charter of Rights and Freedoms, s. 11(h).....	106
Multiple Access v. McCutcheon.....	107
Derrickson v. Derrickson.....	111
Paul v. Paul.....	117
Reference Materials.....	119
 <u>(e) Delegation</u>	
A.-G. Nova Scotia v. A.-G. Canada (Interdelegation Case).....	120

<u>P.E.I. Potato Marketing Board v. Willis</u> .....	125
<u>A.-G. Ontario v. Scott</u> .....	129
<u>R. v. Smith</u> .....	131
Review Problem.....	135
Reference Materials.....	136

## 2. JUDICIAL REVIEW: THE ISSUE OF LEGITIMACY

Brest, "Constitutional Interpretation".....	137
<u>Edwards v. A.-G. Canada</u> .....	144
<u>Weiler, In the Last Resort</u> .....	150
<u>Constitutional Accord, 1987</u> .....	158

## III. THE DISTRIBUTION OF POWERS: SELECTED PROBLEMS

### 1. PEACE, ORDER AND GOOD GOVERNMENT

#### (a) Early Interpretations

<u>Russell v. The Queen</u> .....	159
<u>A.G. Ontario v. A.-G. Canada (Local Prohibition Case)</u> .....	167

#### (b) The Haldane Legacy: POGG as Emergency Power

<u>In re Board of Commerce Act</u> .....	174
<u>Fort Frances Pulp and Power v. Manitoba Free Press</u> .....	180
<u>Note on Toronto Electric Commissioners v. Snider</u> .....	187
<u>Scott, "Some Privy Council"</u> .....	189
<u>Cairns, "The Judicial Committee and Its Critics"</u> .....	190

#### (c) Modern POGG Doctrine

<u>A.-G. Ontario v. Canada Temperance Federation</u> .....	195
<u>Johannesson v. Rural Municipality of West St. Paul</u> .....	199
<u>Reference re Anti-Inflation Act</u> .....	202
<u>Note on References</u> .....	239
<u>Note on Evidence; Reference re Residential Tenancies Act</u> .....	240
<u>R. v. Crown Zellerbach</u> .....	243
Reference Materials.....	255